

(ii) Successfully complete, as indicated by receipt of a passing grade, the Animal and Plant Health Inspection Service training course on phytosanitary certification.

(3) No inspectors shall inspect any plants or plant products in which they or a member of their family are directly or indirectly financially interested.

(c) *Applicant responsibility.* (1) When the services of an agent or an inspector are requested, the applicant shall make the plant or plant product accessible for inspection and identification and so place the plant or plant product to permit physical inspection of the lot for plant pests.

(2) The applicant must furnish all labor involved in the inspection, including the moving, opening, and closing of containers.

(3) Certificates may be refused for failure to comply with any of the foregoing provisions.

§ 353.7 Certificates.

(a) *Phytosanitary certificate (PPQ Form 577).* (1) For each consignment of domestic plants or unprocessed plant products for which certification is requested, the inspector shall sign and issue a separate certificate based on the findings of the inspection.

(2) The original certificate shall immediately upon its issuance be delivered or mailed to the applicant or a person designated by the applicant.

(3) One copy of each certificate shall be filed in the office of inspection at the port of certification, and one forwarded to the Administrator.

(4) The Administrator may authorize inspectors to issue certificates on the basis of inspections made by cooperating Federal, State, and county agencies. The Administrator may also authorize inspectors to issue a certificate on the basis of a laboratory test or an inspection performed by a non-government facility accredited in accordance with § 353.8.

(5) Inspectors may issue new certificates on the basis of inspections for previous certifications when the previously issued certificates can be canceled before they have been accepted by the phytopathological authorities of the country of destination involved.

(b) *Export certificate for processed plant products (PPQ Form 578).* (1) For each consignment of processed plant products for which certification is requested, the inspector shall sign and issue a certificate based on the inspector's findings after inspecting submitted samples and/or by virtue of processing received.

(2) The original certificate shall immediately upon its issuance be delivered or mailed to the applicant or a person designated by the applicant.

(3) One copy of each certificate shall be filed in the office of inspection at the port of certification.

(4) The Administrator may authorize inspectors to issue certificates on the basis of inspections made by cooperating Federal, State, and county agencies. The Administrator may also authorize inspectors to issue a certificate on the basis of a laboratory test or an inspection performed by a non-government facility accredited in accordance with § 353.8.

(5) Inspectors may issue new certificates on the basis of inspections/processing used for previous certifications.

(c) *Phytosanitary certificate for reexport (PPQ Form 579).* (1) For each consignment of foreign origin plants or unprocessed plant products for which certification is requested, the inspector shall sign and issue a certificate based on the original foreign phytosanitary certificate and/or additional inspection or treatment in the United States after determining that the consignment conforms to the current phytosanitary regulations of the receiving country and has not been subjected to the risk of infestation or infection during storage in the United States.

(2) The original certificate shall immediately upon its issuance be delivered or mailed to the applicant or a person designated by the applicant.

(3) One copy of each certificate shall be filed in the office of inspection at the port of certification, and one forwarded to the Administrator.

(4) The Administrator may authorize inspectors to issue certificates on the basis of inspections made by cooperating Federal, State, and county agencies. The Administrator may also authorize inspectors to issue a certificate on the basis of a laboratory test or an

inspection performed by a non-government facility accredited in accordance with § 353.8.

(5) Inspectors may issue new certificates on the basis of inspections for previous certifications when the previously issued certificates can be canceled before they have been accepted by the phytopathological authorities of the country of destination involved.

(d) *Industry-issued certificate.* A certificate issued under the terms of a written agreement between the Animal and Plant Health Inspection Service and an agricultural or forestry company or association giving assurance that a plant product has been handled, processed, or inspected in a manner required by a foreign government. The certificate may be issued by the individual who signs the agreement or his/her delegate.

(1) *Contents of written agreement.* In each written agreement, APHIS shall agree to cooperate and coordinate with the signatory agricultural or forestry company or association to facilitate the issuance of industry-issued certificates and to monitor activities under the agreement, and the concerned agricultural or forestry company or association agrees to comply with the requirements of the agreement. Each agreement shall specify the articles subject to the agreement and any measures necessary to prevent the introduction and dissemination into specified foreign countries of specified injurious plant pests. These measures could include such treatments as refrigeration, heat treatment, kiln drying, etc., and must include all necessary preshipment inspections and subsequent sign-offs and product labeling as identified by Plant Protection and Quarantine (PPQ), APHIS, based on the import requirements of the foreign country.

(2) *Termination of agreement.* An agreement may be terminated by any signatory to the agreement by giving written notice of termination to the other party. The effective date of the termination will be 15 days after the date of actual receipt of the written notice. Any agreement may be immediately withdrawn by the Administrator if he or she determines that articles covered by the agreement were

moved in violation of any requirement of this chapter or any provision of the agreement. If the withdrawal is oral, the decision to withdraw the agreement and the reasons for the withdrawal of the agreement shall be confirmed in writing as promptly as circumstances permit. Withdrawal of an agreement may be appealed in writing to the Administrator within 10 days after receipt of the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the appellant relies to show that the agreement was wrongfully withdrawn. The Administrator shall grant or deny the appeal, in writing, stating the reasons for granting or denying the appeal as promptly as circumstances permit. If there is a conflict as to any material fact and the person from whom the agreement is withdrawn requests a hearing, a hearing shall be held to resolve the conflict. Rules of practice concerning the hearing shall be adopted by the Administrator. No written agreement will be signed with an individual or a company representative of the concerned agricultural or forestry company or association who has had a written agreement withdrawn during the 12 months following such withdrawal, unless the withdrawn agreement was reinstated upon appeal.

(e) *Certificate of heat treatment (PPQ Form 553).* For each consignment containing coniferous packing materials for which certification is requested, the exporter or his or her representative shall complete blocks 1 through 4 of PPQ Form 553 and submit the original form and one copy to an inspector. The inspector shall complete and sign both the original form and the copy.

(2) The original certificate of heat treatment shall immediately upon its issuance be delivered or mailed to the applicant or a person designated by the applicant.

(3) One copy of each certificate shall be filed in the office of inspection.

(4) The exporter or his or her representative must keep on file at his or her office a copy of each certificate issued in his or her name and documentation showing that heat treatment was performed on packing materials in the shipment referred to in the certificate. If the coniferous solid wood

packing materials were heat treated in Canada, this documentation must include a certificate issued by the Canadian Food Inspection Agency stating that the packing materials have been heat treated through a treatment process that increased the minimum core wood temperature to 56 degrees Celsius for 30 minutes. The exporter must make these documents available to an inspector upon request for a period of 1 year following the date of issuance of the certificate.

(Approved by the Office of Management and Budget under control number 0579–0052 and 0579–0147)

[61 FR 15368, Apr. 8, 1996, as amended at 64 FR 1105, Jan. 8, 1999; 64 FR 72265, Dec. 27, 1999; 66 FR 37116, July 17, 2001]

§ 353.8 Accreditation of non-government facilities.

(a) The Administrator may accredit a non-government facility to perform specific laboratory testing or phytosanitary inspection services if the Administrator determines that the non-government facility meets the criteria of paragraph (b) of this section.¹

(1) A non-government facility's compliance with the criteria of paragraph (b) of this section shall be determined through an assessment of the facility and its fitness to conduct the laboratory testing or phytosanitary inspection services for which it seeks to be accredited. If, after evaluating the results of the assessment, the Administrator determines that the facility meets the accreditation criteria, the facility's application for accreditation will be approved.

(2) The Administrator may deny accreditation to, or withdraw the accreditation of, any non-government facility to conduct laboratory testing or phytosanitary inspection services upon a determination that the facility does not meet the criteria for accreditation or maintenance of accreditation under paragraph (b) of this section and has failed to take the remedial action rec-

ommended to correct identified deficiencies.

(i) In the case of a denial, the operator of the facility will be informed of the reasons for the denial and may appeal the decision in writing to the Administrator within 10 days after receiving notification of the denial. The appeal must include all of the facts and reasons upon which the person relies to show that the facility was wrongfully denied accreditation. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

(ii) In the case of withdrawal, before such action is taken, the operator of the facility will be informed of the reasons for the proposed withdrawal. The operator of the facility may appeal the proposed withdrawal in writing to the Administrator within 10 days after being informed of the reasons for the proposed withdrawal. The appeal must include all of the facts and reasons upon which the person relies to show that the reasons for the proposed withdrawal are incorrect or do not support the withdrawal of the accreditation of the facility. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator. However, withdrawal shall become effective pending final determination in the proceeding when the Administrator determines that such action is necessary to protect the public health, interest, or safety. Such withdrawal will be effective upon oral or written notification, whichever is earlier, to the operator of the facility. In the event of oral notification, written confirmation will be given as promptly as circumstances allow. This withdrawal will continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the Administrator.

¹A list of accredited non-government facilities may be obtained by writing to Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road, Unit 140, Riverdale, MD 20737–1236.